

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 28, 2008

DIVISION ONE

B200141 California School Employees Association (Certified for Publication)
 v.
 Bonita Unified School District

The judgment is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.
 Rothschild, J.

B194082 Carlos Arteaga (Certified for Publication)
 v.
 Brink's Incorporated

The judgment is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.
 Rothschild, J.

DIVISION TWO

[illegible]

The orders under review are affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B198418 People (Not for Publication)
v.
Thomas

The appeal is dismissed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Chavez, J.

B202267 Los Angeles County, D.C.S. (Not for Publication)
v.
Eldon E.

The juvenile court's order is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION TWO (continued)

B199118 People (Not for Publication)
v.
Johnny P.

The dispositional order of May 9, 2007, which is under review, is modified to provide that condition of probation No. 15 is as follows: “Do not associate with . . . anyone you know is disapproved of by the parents or probation officer.” Condition of probation No. 21 is modified to provide: “Do not use or possess narcotics, controlled substances, poisons, or related paraphernalia; stay away from places where you know drug users congregate.” The juvenile court’s order that appellant is entitled to 14 days of predisposition credit is vacated, and no new order is required. As modified, the orders under review are affirmed. The juvenile court shall cause its clerk to correct the conditions of probation, Nos. 15 and 21, stated in the minute order of May 9, 2007, to reflect the above modifications in the juvenile court’s disposition order. The clerk shall also delete the indication at No. 22 in that same minute order that appellant is entitled to 14 days of predisposition credit.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Doi Todd, J.

B200374 Los Angeles County, D.C.S. (Not for Publication)
v.
Tarnisha G., et al.

The order denying father's section 388 petition without a hearing and the order denying mother's section 388 petition on the merits are affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION TWO (continued)

B189166 Cal-City Construction, Inc. (Not for Publication)

v.

Wilson, Elser, Moskowitz, Edelman & Dicker, LLP

Wilson Elser is entitled to a partial JNOV with respect to the lost profits award. The judgment is hereby modified to eliminate the lost profits damages. As modified, the judgment is affirmed. The parties shall bear their own costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION THREE

B202932 Isabel T. (Not for Publication)

v.

Superior Court, Los Angeles County

The writ petition is denied. The stay issued January 24, 2008, is hereby lifted. Pursuant to California Rules of Court, rule 8.264(b)(3), this opinion is made final forthwith as to this court.

Aldrich, J.

We concur: Klein, P.J.
 Croskey, J.

DIVISION THREE (continued)

B194374 Sharp, III, et al. (Certified for Partial Publication)

v.

Next Entertainment, Inc., et al.

Shriver, et al.

v.

Rocket Science Laboratories, et al.

The appeal and cross-appeal as to Sharp et al. v. Next Entertainment, Inc., et al. (Super. Ct. L.A. County, No. BC336170) are dismissed. The written orders of August 9, and 11, 2006, denying defendants' motion to disqualify the entire Rothner firm and denying defendants' motion to disqualify all names plaintiffs from acting as representatives of the putative class are affirmed insofar as they relate to Shriver et al. v. Rocket Science Laboratories et al. (Super. Ct. L.A. County, No. BC338746). The verbal order of August 9, 2006, and the written order of October 11, 2006, requiring attorney Leheny to ask questions relating to plaintiffs' association with the Guild are reversed insofar as the orders related to Shriver et al. v. Rocket Science Laboratories et al. (Super. Ct. L.A. County, No. BC338746). The plaintiffs in Shriver, et al. v. Rocket Science Laboratories et al. (Super. Ct. L.A. County, No. BC338746) are awarded all costs on appeal.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION FIVE

B196143 People (Not for Publication)
v.
Emilios Warner

The judgment is reversed. The matter is remanded to allow defendant the opportunity to demonstrate whether the newly discovered evidence would have led to any relevant, admissible evidence that he could have presented at trial and for Judge Fournier to determine whether a new trial is required. If Judge Fournier determines that a new trial is not required by law, the previously imposed judgment shall be reinstated, subject to the following modifications: A \$50 laboratory fee pursuant to Health and Safety Code section 11372.5, subdivision (a); a \$50 Penal Code section 1464, subdivision (a)(1) penalty assessment; a \$35 Government Code section 76000, subdivision (a) penalty assessment; a \$10 state court surcharge pursuant to Penal Code section 1465.7, subdivision (a); a \$15 state court construction fee pursuant to Government Code section 70372, subdivision (a); and a \$500 Penal Code section 1202.45 parole restitution fine which is stayed unless defendant violates a condition of his parole. Upon remittitur issuance, the superior court clerk shall forward an amended abstract of judgment to the Department of Corrections and Rehabilitation. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Armstrong, J.
 Kriegler, J.

B198874 People (Not for Publication)
v.
Helen Brown

The judgment is affirmed.

Armstrong, J.

I concur: Turner, P.J.
I concur: Mosk, J. (Opinion)

May 28, 2008 (Continued)

DIVISION FIVE (continued)

B202368 Edward Ross, as Trustee etc. (Not for Publication)
 v.
 Craig Caldwell

The appeal is dismissed. Respondent to recover costs.

Turner, P.J.

We concur: Armstrong, J.
 Kriegler, J.

B198477 Terry Hoffman
 v.
 Uncle P Productions

Filed order denying petition for rehearing.

DIVISION SIX

Court convened at 9:32 a.m.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and J. Terry, Senior Deputy Clerk.

B198886 Molski
 v.
 Peachy Canyon Winery

Merits:

Argued by Jere N. Sullivan for appellants and by Thomas Edward Frankovich for respondent. Cause submitted.

DIVISION SIX(continued)

B199289 Molski
 v.
 Arciero Wine Group

Merits:
Argued by Thomas Edward Frankovich for appellant and by Jon D. Cantor
for respondent. Cause submitted.

B195977 Myrick
 v.
 City of Paso Robles

Merits:
Argued by Gregory R. Ellis for appellants and by Stephanie Ann Bowen
for respondent. Cause submitted.

Gilbert, P.J., left the bench.

B200308 Benson
 v.
 Little

Merits:
Argued by Kari Lionel Ley for appellants and by Jane Ellen Heath for
respondent. Cause submitted.

Gilbert, P.J., returns to bench.

May 28, 2008 (Continued)

DIVISION SIX(continued)

B200170 St. Clair
 v.
 C & D Towing

Merits:

Argued by Andrew B. Jones for appellant Cameron St. Clair and by Harry Sandel Stern for appellant Adam St. Clair and by Mark B. Connely for respondents. Cause submitted.

Yegan, J., left the bench

B194368 Grant
 v.
 Ratliff

Merits:

Argued by Kathryn McKenzie Eppright for appellants and by Neil S. Tardiff for respondent. Cause submitted.

Court adjourned.

DIVISION EIGHT

Court convened at 9:11 a.m.

Present: Cooper, P.J., Rubin, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

DIVISION EIGHT (continued)

Each of the following:

B199733 People v. Dillard
B198793 People v. Adams
B201145 People v. Nelson
B200902 People v. Vallejo
B200559 People v. Matthew A.
B199751 DCFS v. Gimaggio F. et al.
B201287 People v. Mizerovski
B199611 People v. Patterson
B195201 People v. Garcia
B204171 DCFS v. Felicia J.
B206304 Jasmine S. v. SCLA (DCFS)

Argument waived, cause submitted.

B199196 Stathoulis et al.,
 v.
 City Of Montebello

Merits:

Argued by Raymond Feinberg for appellants and by Kenton E. Moore for respondent. Cause submitted.

B197131 William Penrock
 v.
 Lugo Land Corporation

Merits:

Argued by Patrick Stacker for appellant and by Ralph Martinez for respondent. Cause submitted.

DIVISION EIGHT (continued)

B194345 Po-Jen Chen et al.,
 v.
 Interinsurance Exchange of the Automobile Club

Merits:
Argued by Henry LaTorraca for appellants and by K. Michele Williams for respondent. Cause submitted.

B195092 Cardoza
 v.
 USC University Hospital et al.,

Merits:
Argued by Cynthia Cardoza, appellant, appearing in propria persona and by Mary Lawrence Test and Donald Onelas, Jr. for respondents. Cause submitted.

Court recessed.

Court reconvened at 1:37 p.m.

Present: Cooper, P.J., Rubin, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

B200693 Jill Farwell et al.,
 v.
 Sunset Mesa Property Owners Association

Merits:
Argued by Steven A. Morris for appellants and by Leonard Siegel for respondent. Cause submitted.

B194750 Grace Rivera
 v.
 State Farm Mutual Automobile Insurance

Merits:
Argued by Robert Stoll for appellant and by Seth Friedman for respondent. Cause submitted.

May 28, 2008 (Continued)

DIVISION EIGHT (continued)

B203726 Alch et al.,
v.
Superior Court, Los Angeles County
(Time Warner et al., r.p.i.)

Matter ordered off calendar.

B195749 Auchterloine et al.,
v.
Wild Oats

Matter ordered off calendar.

Court adjourned.

B193456 People (Not for Publication)
v.
Mills

The judgment is reversed. The case is remanded to the trial court with instructions to hold a retrospective competency hearing. Counsel shall be appointed to represent defendant Mills at the hearing. If Mills is found to have been competent to stand trial, the judgment shall be reinstated. If Mills is found to have been incompetent to stand trial, he shall receive a new trial. In all other respects, the judgment is affirmed.

Egerton, J. (Assigned)

We concur: Rubin, Acting P.J.
Flier, J.

DIVISION EIGHT (continued)

B194350 Brutto et al., (Not for Publication)
 v.
 Chin et al.,

The judgment is reversed and remanded for further proceedings.¹¹ Each side to bear its own costs on appeal.

Rubin, Acting P.J.

I concur: Flier, J.

I concur and dissent: Egerton, J. (Assigned) (Opinion)

B196156 People (Not for Publication)
 v.
 Martinez

The judgment is affirmed.

Flier, J.

We concur: Cooper, P.J.
 Gilbert, J. (Assigned)

B202017 People (Not for Publication)
 v.
 Diaz

The judgment is affirmed.

Flier, J.

We concur: Cooper, P.J.
 Rubin, J.